

REMARKS

Receipt of the Office Action of July 31, 2006 is gratefully acknowledged.

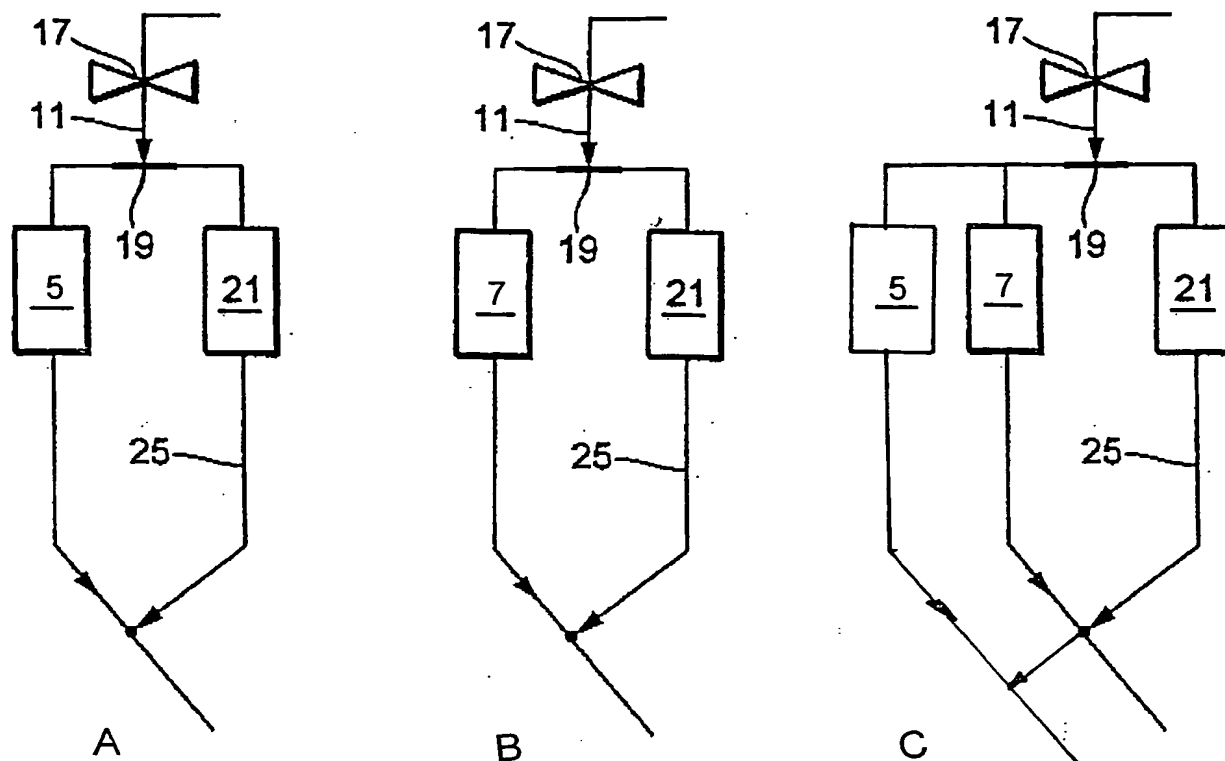
Claims 9 - 15 were examined in this RCE application as a result of the Response filed under 35 USC 114. These claims have been rejected as follows: (1) claim 10 under 35 USC 112, first paragraph as failing to comply with the written description requirement; (2) claim 10 under 35 USC 112, first paragraph as failing to comply with the enablement requirement; (3) claim 10 under 35 USC 112, second paragraph as indefinite; and (4) claims 9 and 11-15 under 35 USC 102(b) by Adney et al

each of these rejections is respectfully traversed.

(1) & (2)

These two rejections can be dealt with together.

It is clear from reading the noted two rejections, that the invention as described is not understood. The below illustration shows the three possibilities disclosed. In A, only the flow meter 5 is employed in parallel with the reference flow meter 21. In B, only the calibration cart 7 is employed in parallel with the reference flow meter 21. In C, both the flow meter 5 and the calibration cart 7 are employed in parallel with the reference meter 21. Those skilled in the art will understand this from reading at least the bottom of page 6 and lines 1 - 5 of page 7 of the specification. Frankly, nothing more is necessary to understand the invention and that is all that the first paragraph of 35 USC 112 requires in its written and enablement requirements.



Enablement is a matter of law, *In re Goodman*, 11F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993) to be judged against what the person of skill in the art possesses. It is respectfully submitted that the person of skill in the art in question, would have no difficulty in understanding the invention to include what is presented above. The same is true with respect to the written description requirement. See, *In re Kaslow*, 707 F2d 1366, 217 USPQ 1089 (Fed. Cir. 1083).

Rejections (1) and (2) should be withdrawn

(3)

Page 7, lines 7 - 10 of the written description states that the reference flow

U.S. Pat. Appl. 10/687,094

meter 21 "...is installed in parallel to the flow meter 5 or the flow meter calibration cart 7..." Claim 10 recites this feature described on page 7.

This rejection should now also be withdrawn.

(4)

The newly cited Adney et al reference lacks a teaching of either A, B or C above, covered by claim 9, and because of this deficiency, it also lacks the steps recited in claim 15 which covers A and B. To reject under 35 USC 102, all the possibilities must be shown.

In view of the foregoing, reconsideration and re-examination are respectfully requested and claims 9 - 15 allowed.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Felix J. D'Ambrosio', with a long horizontal flourish extending to the right.

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